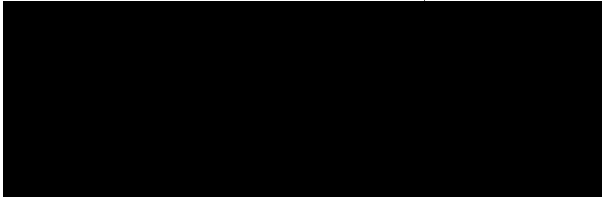


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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



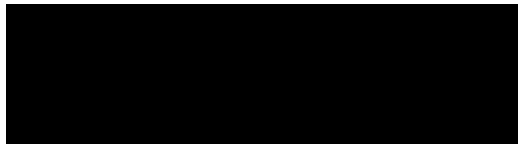
U.S. Citizenship
and Immigration
Services



FILE: EAC 03 055 55431 Office: VERMONT SERVICE CENTER

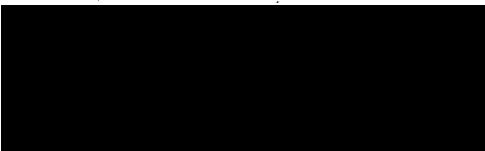
Date: JUN 17 2004

IN RE: Petitioner:
Beneficiary:



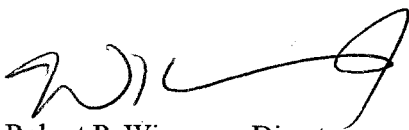
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner claims to be in the custom tailored men's and ladies clothing business. The petitioner claims to be a subsidiary of Mode Fashion House Limited Partnership, located in Thailand. The petitioner seeks to employ the beneficiary temporarily in the United States in a managerial or executive capacity, namely as its chief executive officer and managing director. The director determined that the petitioner failed to provide sufficient evidence to establish that within one year of operation, the U.S. entity will be able to support a managerial or executive position, or that the beneficiary's duties will be primarily managerial or executive in capacity. The director further noted that the instant petition was filed after the expiration of the beneficiary's B-1 status; and that the petitioner failed to submit sufficient evidence to demonstrate why the petition was filed late, and that the beneficiary had not violated his or her nonimmigrant status.

On appeal, counsel indicated that he would submit a brief and/or evidence to the AAO within 30 days. The notice of appeal is dated February 21, 2003. To date, the AAO has not received a brief or any additional evidence. Therefore, the record is considered complete.

The regulation at 8 C.F.R. 103.3(a)(1)(v) states in part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

As counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal, the appeal will be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.